

**UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

IN RE:)	CHAPTER 7
)	
VALARIE L. BURGAN,)	CASE NO. 07-62876
)	
Debtor.)	JUDGE RUSS KENDIG
)	
)	MEMORANDUM OF OPINION
)	(NOT INTENDED FOR
)	PUBLICATION)

This matter is before the court on Debtor's Application to Proceed *In Forma Pauperis* (hereafter "application") filed on September 26, 2007. On the same date, Debtor filed an affidavit stating that she is not employed, has no wages, and was not required to file a 2006 tax return. She also attested that her only income is \$731.00 in monthly social security benefits.

Following passage of the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005, debtors are permitted to seek a waiver of the bankruptcy filing fee. Pursuant to 28 U.S.C. § 1930(f), a "bankruptcy court may waive the filing fee . . . if the court determines that such individual has less than 150 percent of the income official poverty line . . . applicable to a family of the size involved and is unable to pay that fee in installments." By the terms of the statute, a court's ability to waive the fee is permissive, not mandatory ("may waive"), and is premised upon a finding that a debtor meets the income and inability to pay in installments criteria.

The court will first determine whether Debtor's income is 150 percent of the poverty level. According to the Department of Health and Human Services 2007 Poverty Level Guidelines, available at <http://aspe.hhs.gov/poverty/07poverty.shtml>, the poverty income for a family of one is \$10,210.00. At 150 percent of poverty, the poverty income is \$15,315.00 annually, or \$1,276.75 per month.

Form B22A (the "means test") indicates Debtor's Annualized Current Monthly Income is zero (0). Debtor lists her monthly social security benefits of \$731.00 on Schedule I. Clearly, the figures indicate that Debtor is below the 150% poverty threshold. Debtor has satisfied the first prong of the test.

Next, the court must determine if Debtor has the ability to pay the filing fee in installments. Upon review of Debtor's Schedule J, the court concludes that Debtor is not able to pay the filing fee in installments. Debtor's modest budget shows a monthly shortfall of \$65.40. Thus, the court finds that the Debtor does not have the ability to pay the filing fee in installments and she has satisfied the second prong of the test.

In light of the above, the Court hereby **GRANTS** Debtor's application to waive the filing fee.

An order in accordance with this decision shall be issued immediately.

/s/ Russ Kendig

RUSS KENDIG
U.S. BANKRUPTCY JUDGE

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Service List:

Valarie L. Burgan
927 Spink Street
Wooster, OH 44691

Wayne W Sarna
Community Legal Aid Services, Inc.
First National Tower, 7th Floor
Youngstown, OH 44503

Anne Piero Silagy
220 Market Ave., S., #300
Canton, OH 44702